

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 418

As Amended by House Committee on
Federal and State Affairs

Brief*

The bill would enact the Personal and Family Protection Act that would authorize the Kansas Attorney General, beginning in January of 2007, to issue four-year licenses to certain persons to carry concealed handguns. The bill would establish qualifications for licensure and procedures and fees for obtaining a license. The bill specifically would preempt local regulation of carrying concealed weapons.

The Attorney General would not have discretion regarding licensure. The only grounds for denial of a license application would be failure of the applicant to meet statutory criteria discussed below. The Attorney General would be required to issue a license or deny an application within 180 days after receiving the necessary documents that were received before July 1, 2007 and 90 days after July 1, 2007. The Attorney General would be authorized to adopt rules and regulations to administer the Act.

Concealed carry licenses issued by another state or the District of Columbia would be valid in the State of Kansas if the Attorney General determines that standards for issuance, in other states and the District, are equal to or greater than, standards for concealed carry in Kansas. These standards only would apply to licensees who are not residents of Kansas. The Attorney General would be required to maintain and publish a list of states which meet, or exceed, Kansas standards. A determination on whether the standards of the District of Columbia meets or exceeds Kansas standards also would be made.

In order to qualify for licensure a person would have to:

- Be a U.S. citizen who is a resident of the county where the application is filed, and for at least six months, a Kansas resident;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Be at least 21 years of age;
- Be free from any physical infirmity that prevents safe handling of a weapon; and
- Desire a legal means to carry a concealed weapon for lawful self-defense.

In addition, applicants for licensure would have to present evidence of completion of a "weapons safety and training course" approved by the Attorney General, law enforcement agency, or the National Rifle Association (NRA). Applicants would have to pay for their training course.

The bill would disqualify from licensure anyone:

- Who had ever been convicted, placed on diversion, or adjudicated for a felony (adult or juvenile) in any jurisdiction;
- Who had been determined to be disabled under the Act for obtaining a guardian or conservator unless the person was ordered restored to capacity three or more years before applying for a license;
- Subject to a restraining order under the Protection from Abuse Act or the Protection from Stalking Act;
- Who is in contempt of court in a child support proceeding;
- Who has been dishonorably discharged from military service; and
- Who, during the five years immediately preceding the date of application, had been:
 - A mentally ill person or involuntary patient, as defined in KSA 59-2946;
 - Committed for abuse of a controlled substance;
 - Convicted, placed on diversion, or adjudicated (adult or juvenile) in any jurisdiction for a misdemeanor under the Uniform Controlled Substances Act;
 - Committed for abuse of alcohol;

- o Placed on a diversion or convicted two or more times for driving under the influence of alcohol or drugs; or
- o Convicted, placed on diversion, or adjudicated (adult or juvenile) of a misdemeanor under any municipal ordinance or under Articles 34 (crimes against persons) or 35 (sex offenses) of Chapter 21 of Kansas law or a similar law in any jurisdiction.

The Attorney General would have access to expunged criminal records for purposes of determining a person's qualification for licensure.

Failure to notify the Attorney General within 30 days of a change of permanent address, or the loss or destruction of a license, could result in imposition of a maximum \$100 fine, or a maximum 180-day license suspension.

Procedures and standards for the weapons safety and training course would be established in rules and regulations of the Attorney General. Those standards would have to include:

- A requirement that trainees receive training in the actual firing and safe storage of weapons and instruction in state laws regarding the carrying of concealed weapons and the use of deadly force;
- General guidelines for courses;
- Qualifications of instructors; and
- A requirement that the course be a weapons course:
 - o Certified or sponsored by the Attorney General or the NRA; or
 - o Certified or sponsored by a law enforcement agency, college, private or public institution or organization, or weapons training school and taught by instructors certified by the Attorney General or the NRA.

The following would constitute evidence of satisfactory completion of an approved weapons safety and training course:

- Evidence of completion of the course in the form provided by rules and regulations adopted by the Attorney General; or
- An affidavit from the instructor, school, club, organization or group that conducted or taught the course attesting to completion by the application.

Licensees could not carry concealed weapons into:

- A place in which a common nuisance activity is maintained (illegal gambling, promotion of obscenity, promotion of prostitution, and violations of drug, alcohol, and tobacco laws);
- A police, sheriff, or Highway Patrol station;
- A detention facility, prison, or jail;
- A courthouse;
- A polling place on the day an election is held;
- A meeting of the governing body of a county, city, or other subdivision;
- Any city hall;
- A courtroom (unless the licensee is a judge or unless authorized by the judge);
- A school, community college, college, university, or professional athletic event not related to firearms;
- Any portion of a drinking establishment, except that this shall not apply to a restaurant;
- The State Fairgrounds;
- Any state office building;
- Any community college, college, or university facility;
- Any elementary or secondary school building or structure used for student instruction or attendance;

- Any athletic event not involving firearms sponsored by private and public schools and colleges (an athletic event is defined as athletic instruction, practice or competition held at any location and including any number of athletes),
- Any professional athletic event not involving firearms,
- Any place where the carrying of firearms is prohibited by state or federal law;
- Any public library operated by the State or by any political subdivision;
- Any day care home or any group day care home as defined in Kansas Administrative regulation 28-4 113;
- Any church or temple;
- Any childcare center or preschool;
- Any child exchange and visitation center; or
- Any community mental health center or state hospital

Carrying concealed weapons in prohibited places would be a class A misdemeanor.

A licensee carrying a concealed weapon while under the influence of alcohol or drugs, or both, would be guilty of a class A nonperson misdemeanor.

The bill would not prevent public or private employers or businesses open to the public from prohibiting licensees from carrying concealed weapons while on the premises of the business or while engaging in duties of employment. Businesses that are open to the public would have to post signs stating that carrying a concealed weapon on the premises is prohibited. Property owners would be authorized to restrict or prohibit concealed weapons by posting notices. Violation of carrying a concealed weapon on a restricted or prohibited property would be a class B misdemeanor.

An application for a concealed weapon license would be completed under oath and submitted with the required fee to the sheriff of the county where the applicant resides. Application for licensure would have to include home address, social security number, a waiver

of confidentiality of medical records, and an awareness that submission of false answers is subject to criminal prosecution. The initial license fee would be up to \$150. The license renewal fee would be up to \$100. A late fee of \$15 would apply to license renewals made up to six months after expiration of the license. The fee for replacement of a lost or destroyed license would be \$15. Retired law enforcement officers would be exempt from fees and background investigations. Fees received by the Attorney General would have to be used for administration of the Act with any balance allocated to the county Law Enforcement Equipment Fund (20 percent) and the Forensic Laboratory and Materials Fee Fund (80 percent).

The sheriff would be required to forward to the Attorney General \$110 of the original license fee, and \$50 of the renewal fee. The cost of taking the applicant's fingerprints would be included in the portion of the fee kept by the sheriff. All fees retained by the sheriff would be deposited in the county general fund and budgeted for the use of the sheriff's department.

The sheriff accepting an application would be authorized, but not required, to submit within 45 days a report to the Attorney General of any "readily discoverable prior information" that the sheriff deems pertinent to the licensing of any applicant. A sheriff who submits such a report would not incur any civil or criminal liability as a result of a good faith submission.

The sheriff of a county, where the issuance of a restraining order under the Protection from Abuse Act or the Protection from Stalking Act would prohibit the issuance of a license for concealed carry, would be required to notify the Attorney General immediately upon receipt of such issuance. If the person subject to such restraining order holds a concealed carry license, the Attorney General would be required to immediately revoke such license. In addition, the Attorney General would be required to adopt rules and regulations establishing procedures that would allow for a 24 hour notification and revocation of such license.

The Attorney General would be required to notify licensees in writing at least 90 days prior to license expiration. Licensees would apply for renewal by submitting to the sheriff the renewal fee, renewal form, affidavit stating that the licensee is qualified as required by the bill, a photograph, and evidence of completion of the required weapons safety and training course.

The Attorney General would be required to maintain an

automated listing of license holders and "pertinent information." That information would have to be available, upon request, at all times to all law enforcement agencies in Kansas. By January 1, each year, the Attorney General would have to provide a statistical report to the Governor and Legislative leadership regarding the number of licenses issued, revoked, suspended, and denied during the preceding fiscal year and the reasons for such revocations, suspensions and denials.

Suspension or revocation of a license would be subject to review by the district court.

Failure to carry the concealed weapons license and a valid driver's license or nondriver identification card when carrying a concealed weapon or failure to display both the license and proper identification upon demand by a law enforcement officer would be a class B nonperson misdemeanor.

A false answer to any question on the license application form or submission of any false document by the applicant would subject the applicant to prosecution for perjury.

Background

The bill is similar to the House passed version of 2004 HB 2798.

Opponents of the bill, as introduced in the Senate Committee on Federal and State Affairs, included representatives of the following: Safe State Kansas; League of Kansas Municipalities; the City of Overland Park; the police departments of Overland Park and Lenexa; the Unified Government of Wyandotte County/Kansas City, Kansas; the Social Justice Center; and the Fairmount United Church of Christ.

Proponents included: Senator Journey; Representative Ruff; the National Rifle Association; and several individuals.

Proponents of the bill, as introduced in the House Committee, included: Representatives Sharon Schwartz and Candy Ruff; Senator Phil Journey; representatives of the Attorney General's Office, the NRA, and the Youth Hunter Education Challenge. Also a NRA Certified Firearms Instructor, three individuals and a school psychologist testified in support.

Neutral conferees included representatives of the Kansas Coalition Against Sexual & Domestic Violence, the Emporia Public Library, the State Library and the Topeka and Shawnee County Public

Library.

Opponents included representatives of the League of Municipalities; the Kansas National Education Association; the City of Wichita; the Board of Directors of the Wichita Public Libraries and the Board of Governors of the Friends of the Wichita Public Library; the Safe State Kansas/ Interface Ministries; the Overland Park Police Department; the Unified Government of Wyandotte County/Kansas City, Kansas; and a physician.

The fiscal note as introduced in the Senate Committee on Federal and State Affairs was based upon 6 months because the Act will be effective January 1, 2007, and would be for the second half of FY 2007.

The revenue generated would be based on 10,000 permits issued (Oklahoma's initial enactment of concealed carry.) The Attorney General would be able to collect \$110 for new applications and \$50 for renewals. Therefore the Attorney General would receive \$1.1 million ($\$110 \times 10,000$) from application fees in FY 2007.

The cost for the Attorney General to administer the Act would be \$670,500. The Attorney General would require 5 new FTE positions along with related expenses at a cost of \$130,500.

The fiscal note assumes the Attorney General's Office would pay for KBI background checks which would cost \$540,000 ($\$54 \times 10,000$). The KBI would require 4 new FTE positions to process the criminal records check.

	<u>FY 2007</u>
Revenues:	
Sale of Licenses	\$ 1,100,000
Expenditures:	
KBI Background Check	\$ 540,000
AG Exp & 5 FTE	130,000
Subtotal	<u>\$670,000</u>
4 KBI FTE	\$ 60,284
City Hall Security	<u>100,000</u>
Subtotal	\$ 160,284
Total	<u><u>\$ 830,784</u></u>